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USWEST

FEB 4 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Elridge A. Stafford
Executive Director-
Federal Regulatory

February 4, 1999

EX PARTE

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

RE: CC Docket No. 94-54, Resale Obligations Pertaining to
Commercial Mobile Radio Services

Dear Ms. Salas:

Yesterday, Kathy Zachem, Ken Patrich of Wilkinson, Barker, Knauer and Quinn and the undersigned, representing U S WEST, met with Ari Fitzgerald from the office of Chairman Kennard to discuss matters related to CMRS resale obligations. We advised Mr. Fitzgerald that the FCC was not required to impose a resale obligation on bundled CPE-service packages and that it was not in the best interest of consumers for such an obligation to be imposed on new PCS entrants such as U S WEST. The points addressed in this meeting are set forth in the attached handout. Please include this letter and attachment in the record for the above referenced proceeding.

In accordance with Section 1.1206(a)(2) of the Commission's rules, the original and one copy of this letter, with attachment, are being filed with your office. Acknowledgment and date of receipt of this transmittal is requested. A duplicate of this letter is included for this purpose.

Please contact me should you have any questions concerning this matter.

Sincerely,



cc: Ari Fitzgerald

Attachment

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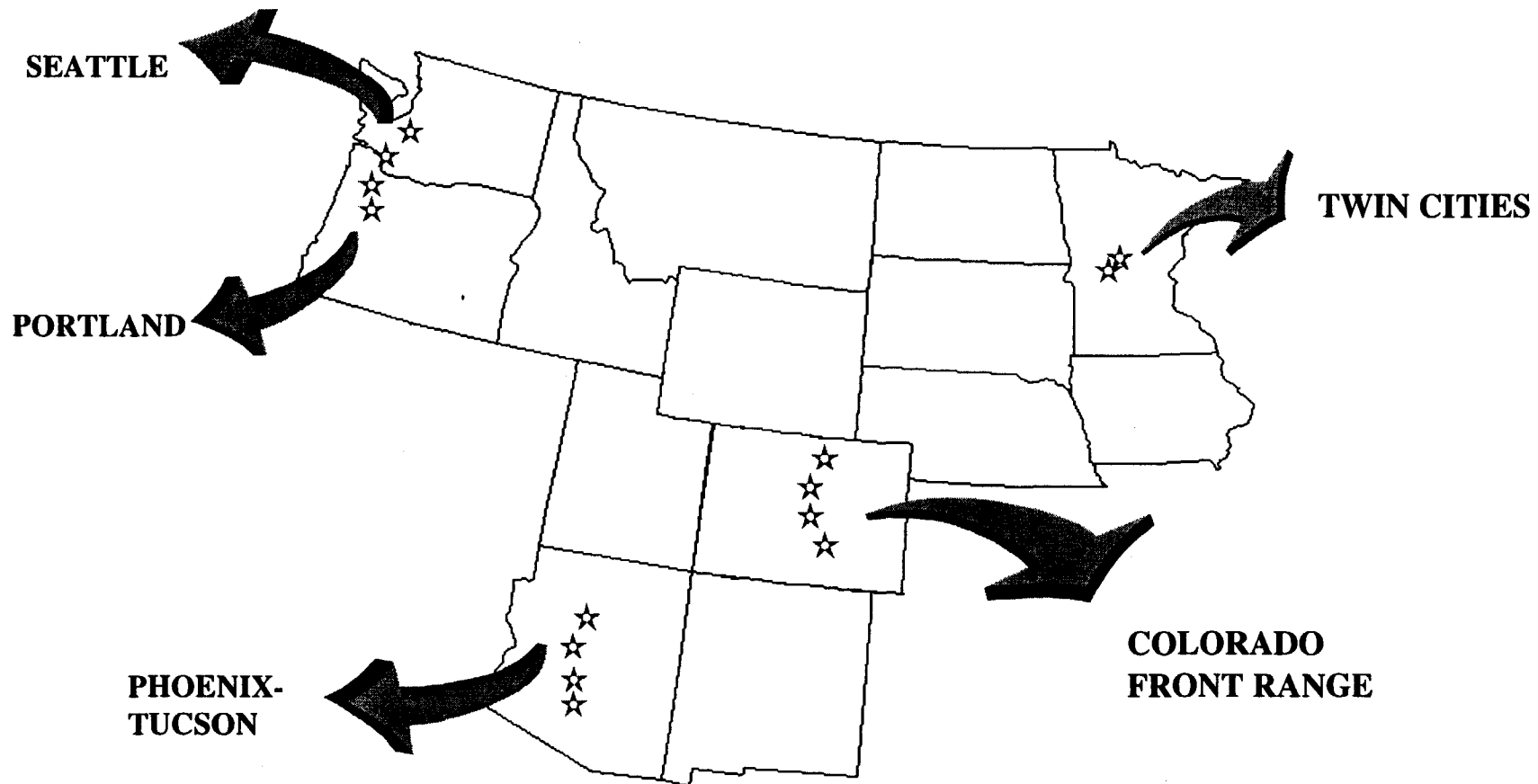
US WEST Wireless, LLC

- **CMRS affiliate of U S WEST Communications**
- **Won 10 MHz PCS licenses in 53 BTA markets**
- **Late '97 - late '98: launched service in 5 metro corridors**
- **1999 plans: expand current markets, enter 3 more**



FCC Exparte: Resale of bundled CPE.

Markets already served



USWEST
life's better here®



FCC Ex parte: Resale of bundled CPE.

National Market Share Comparison: Estimates of mobile two-way voice subscribers

(In millions. Source: Exhibit A in PCIA Comments in WT Docket 98-205)

	PCS	SMR	CELLULAR	% of TOTAL SUBSCRIBERS	
				PCS	SMR
Paul Kagan	7.5	2.1	35.9	16%	4%
Strategis Group	8.2	4.3	30.3	19%	10%
Donaldson, Lufkin	8.6	--	56.9	13%	--
Shosteck Assoc.	5.8	2.4	57.4	9%	4%
Insight Research	8.2	--	51.3	14%	--
3rd CMRS Report	6.4	2.3	59.8	9%	4%



FCC Exparte: Resale of bundled CPE.

Subscriber-reported CMRS carrier market share In five U S WEST Wireless markets

(Source: Telephone surveys of wireless subscribers in USWW markets 9/98-1/99)

	# Wireless Respondents	CELL.	A&B PCS %	C,F PCS %	SMR %	D,E PCS %
Denver	715	62.4	17.2	--	4.5	12.0
Phoenix-Tucson	1,388	66.2	15.7	--	0.9	5.6
Twin Cities	673	66.4	12.4	--	4.0	7.3
Seattle	706	68.1	8.1	--	4.7	5.9
Portland				--		

Remaining percentages attributed to rural cellular carriers, and entities believed to be agents and small resellers.



FCC Exparte: Resale of bundled CPE.

Larger resellers in U S WEST Wireless markets

(Source: Reseller responses to survey conducted by RCR Magazine, published January 11, 1999)

- MCI WorldCom
- Select Wireless, Inc.
- Discount Cellular, Inc.
- Marathon Communications
- Phase 2

Policy Analysis

- The Commission has indicated that bundled CPE and wireless service packages are subject to the just and reasonable requirements of Title II. See *First Report and Order*, 11 F.C.C.R 18455, 18471-72 (1996).
- However, the provision of CPE is not a common carrier service subject to Title II. See *Policy and Rules Concerning Rates for Dominant Carriers*, 4 F.C.C.R. 2873, 2887 n. 17 (1989).
- Thus, the failure to make CPE available to resellers, whether alone or as part of a bundled offering, cannot be unreasonable under Title II.
- At a minimum, the Communications Act does not compel the FCC to mandate the provision of bundled service and CPE offerings to resellers.
- There is no compelling public interest reason for the FCC to mandate provision of bundled service & CPE offerings to resellers.
- Mandated resale effectively forces the new facilities based competitors to subsidize resellers.